

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

COMMERCIAL ARBITRATION PETITION (L) NO. 1177 OF 2019

Manan Lahoty

... Petitioner

V/s.

Luthra and Luthra Law Offices

... Respondent

Mr. Nitin Thakkar, Senior Advocate a/w. Mr. Gaurav Joshi, Senior Advocate, Mr. Rohit Gupta i/b. Sagar Kasar for the petitioner.

Mr. Daurius Khambata, Senior Advocate a/w. Dipen Merchant, Senior Advocate, Chirag Kamdar, Mehul Shah for the respondent.

CORAM : G.S.KULKARNI, J.

DATE : 1 October, 2019

P.C.:

Heard Mr. Thakkar, learned senior counsel for the petitioner and Mr. Khambatta, learned senior counsel for the respondent.

2. This is a petition filed under section 37 of the Arbitration and Conciliation Act, 1996 (for short “the Act”) challenging the order dated 28 September 2019 passed by the learned sole arbitrator, on an application of the respondent moved under section 17 of the Act, whereby ad-interim reliefs are granted in favour of the respondents in terms of prayer clauses (a), (b) and (g) till the adjourned date of hearing, of the Section 17 application.

3. Although the learned counsel has made extensive submissions on this

petition, however, an opportunity of dealing with these submissions and passing an order on the merits of the petition would not be available, as at the end of the submissions, the parties have agreed to arrive at an interim arrangement.

4. Considering the facts and circumstances, keeping in mind the interest of the parties, it is considered appropriate that the suggestions as made by the learned senior counsel for the parties be accepted and an order passed.

5. Accordingly, by consent of the parties, the petition is disposed of in the following terms as agreed between the parties:

- (i) The impugned order dated 28 September 2019 passed by the learned sole arbitrator is set aside;
- (ii) The parties agree to terminate the mandate of the sole arbitrator as earlier appointed, and appoint Shri Justice B.N. Shrikrishna (Retired) as a substitute sole arbitrator;
- (iii) The learned Arbitrator shall make a disclosure as per the requirement of Section 11(8) read with Section 12(1) of the Arbitration and Conciliation Act, 1996 before entering the arbitration reference.
- (iv) The fees payable to the arbitral tribunal shall be as prescribed under the Bombay High Court (Fees Payable to Arbitrators)

Rules,2018.

- (v) The parties are at liberty to move before the arbitral tribunal, applications seeking interim measures as permissible in law, as also file their respective pleadings thereon;
- (vi) All contentions of the parties in that regard are expressly kept open;
- (vii) At the first instance, the parties shall appear before the learned sole arbitrator on 5 October 2019 at a time which may be mutually fixed by the learned sole arbitrator;
- (viii) Till the Section 17 application is heard for ad-interim /interim reliefs and orders thereon are passed, Mr. Thakkar, learned senior counsel for the petitioner makes a statement that his client would not solicit any retainers. As regards the existing clients, the arrangement which prevails today in respect of professional work in hand shall continue to operate, till appropriate orders on the Section 17 Application are passed by the learned sole arbitrator;

6. Apart from what is agreed above, as there are still some issues, in my opinion, it is in the interest of justice, that in the event the petitioner intends to accept any professional work in regard to the existing clients of the firm which is not part of the existing professional work, already in hand with the

firm, such issues be raised before the arbitral tribunal and appropriate orders thereon be passed by the arbitral tribunal, after hearing the parties. All contentions in that regard are expressly kept open.

7. Office to forward a copy of this order to the learned Arbitrator on the following address:

46, 1st floor, "SHYAMALA".
M. Lotlikar Marg,
Behind Don Bosco School,
Matunga, Mumbai – 400 019.
Tel.No. 022-24096488/24096537

8. Petition is disposed of in the above terms.

(G.S.KULKARNI, J.)